

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIP J. KENNY,

Defendant.

Criminal Action No.: 09-758 (JLL)

**ORDER**

On May 4, 2010, Defendant was sentenced after previously entering a guilty plea. Mr. Kenny is set to surrender on June 21, 2010. In response to this Court's Opinion in another case, United States v. Manzo, which dismissed a portion of an indictment against a different defendant, Mr. Kenny requested a stay of his surrender date until the appeal in Manzo has been decided. Mr. Kenny's attorney acknowledged in a conference call with this Court and the Government that Mr. Kenny's case does not fall within the four corners of the Manzo Opinion, but nevertheless requests the stay in the event that the Third Circuit were to interpret the holding in that Opinion in such a way as to cover the facts in Mr. Kenny's case. The Court requested briefing on the stay request. The Court has considered both parties' submissions and agrees that the Manzo case is factually distinguishable from Mr. Kenny's case. Therefore, the Court finds that a stay of the surrender date until the time of the appellate decision is not warranted.

Accordingly, it is on this 18th day of June, 2010,

**ORDERED** that Mr. Kenny's request for a stay is DENIED.

/s/ Jose L. Linares

JOSE L. LINARES,  
UNITED STATES DISTRICT JUDGE